UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,917	01/14/2002	Thad Kroon	1DATA.054A	2503

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EXAMINER
POINVIL, FRANTZY

ART UNIT	PAPER NUMBER
3692	

NOTIFICATION DATE	DELIVERY MODE
04/08/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _10 January 2008_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-31_ is/are pending in the application.
　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-31_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
　　a)☐ All　b)☐ Some *　c)☐ None of:
　　　　1.☐ Certified copies of the priority documents have been received.
　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.
　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 01/10/2008 has been entered.

The Examiner's response to applicant's arguments is incorporated in the rejection found

below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Templeton et al (US Patent No. 5,679,940).

As per claims 1, 13-16 and 24-27, Templeton et al disclose a system and method for

enabling a merchant to accept or deny a check presented by a customer for the payment of goods

or services. Templeton et al disclose:

a risk scoring engine that evaluates risk in an original financial transaction

wherein a customer is attempting to pay for vendibles using a promissory payment and

wherein the risk scoring engine uses a first scoring model to assess the risk of the original

financial transaction and provides a signal indicating that the promissory payment by the

customer in the original financial transaction be declined when the risk exceed a pre-selected

threshold;

decision overturn engine that re-evaluates the decline using a second scoring model, wherein

the overturn scoring engine classifies the risk of overturning the original decline and provides

an overturn classification signal indicative thereof; and

a customer service module that receives the overturn classification signal from the overturn

scoring engine and provides the signal to a customer service representative such that when

the customer service representative receives a request to overturn the decline of promissory

payment in the original transaction, the customer service representative utilizes the overturn

classification signal to decide whether to overturn the original decline.   Applicant is directed

to column 6, lines 48-67 and column 25, lines 1-20 and column 5, lines 1-20.

Applicant's representative has amended the independent claim 1 to recite wherein the

overturn scoring engine classifies the risk of overturning the original decline "based on one or

more second transaction variables, the second transaction variables including at least a second

transaction variable indicative of a request to overturn the decline and provides an overturn

classification signal indicative of the risk of overturning the original decline;" and argues that

Templeton et al fail to teach or suggest this limitation.

Applicant has amended independent claim 13 to recite: "performing a decision overturn evaluation using an overturn engine to classify the risk associated with overturning the original decline to accept the promissory payment based at least in part on a factor indicating a request to overturn the decline;

Applicant has amended independent claim 24 to recite: "an overturn scoring engine that receives data about the promissory payment and

the financial transaction, wherein the overturn scoring engine evaluates a number of

factors contained within the data, including at least one factor indicative of a request to

overturn the original decision, to obtain an overturn score and wherein the overturn

scoring engine classifies the overturn score into one of a plurality of classifications and

generates a classification signal indicative thereof;

Applicant then argues that Templeton et al fail to teach or suggest these limitations.

In response, Templeton et al is directed to a system and method for authorizing a check payment made by a customer to a merchant at a point of sales terminal. See the abstract. Information regarding the check is transmitted to a remote location for analysis and/or approval. Templeton et al state: "If the pending transaction is not approved by the terminal, the transaction data is transmitted to the host computer. The host computer applies a risk scoring algorithm to the data to determine whether the transaction should be approved, declined, or whether additional information is needed. If the transaction is approved or declined, a response packet including authorization indicia is transmitted to the terminal. If additional data is needed, the host computer transmits prompts to the terminal. The terminal displays the prompts and the merchant

enters the requested data into the terminal. A new transaction packet including the original

transaction data and the additional requested data is transmitted to the host computer, where it is

approved or declined.".

From this teaching, it is clearly noted that a second check is made in an attempt to

authorize the check payment made by the customer. It is noted that different additional

information are required thus, requiring a second risk model to make a proper determination to

authorize payment. Regarding the argument of classifying the risk of overturning the original

decline based on one or more second transaction variables, the Examiner asserts that since the

risk factor is performed more than one time and a result is obtained, therefore a risk class (such

as approved, declined or pending) is associated with each result.

As per claim 2, Templeton et al disclose a point of sale transmission device that transmits

data about the original financial transaction to the risk scoring engine and wherein the point

of sale transmission device receives the signal from the risk scoring engine to communicate

the acceptance or decline of the original financial transaction. See column 5, lines 1-20.

As per claim 3, the promissory payment comprises a check.

As per claim 4 the system further comprises a database and wherein the decision overturn

engine stores the overturn classification signals in the database for subsequent access by the

customer service module. See column 6, lines 48-67 and column 12, lines 52-65.

As per claims 5-7, and 17-18, 26-27 various types of criteria are used in order to predict

or result in a classification signal as whether to accept or deny the promissory payment.

As per claims 8-12, 19-23 and 28-31, Templeton et al teach determine a low risk, a

medium risk and a high risk. See column 6, lines 48-67. Templeton et al teach overturning the

original transaction decision on these different risks if the customer provides additional details to

the customer service representative. It should be noted that Templeton et al provide these

classification of risks because a customer's promissory statement is being declined. Templeton

et al state that if a customer's promissory statement is declined, the final decision may be left to

the merchant or a live agent. See column 5, lines 13-20. Additional information may be

requested from the merchant or the merchant may overturn the decision. See column 25, lines 8-

20.

The Examiner thanks the applicant for providing a listing of related patent

applications which the Examiner has carefully reviewed.

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-

6797. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Frantzy Poinvil/
Primary Examiner
Art Unit 3692

FP
March 20, 2008